



The Competitive Carriers Association

**Rural Cellular Association**

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**VIA ECFS – EX PARTE**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: *Universal Service Contribution Methodology*, WC Docket No. 06-122  
*A National Broadband Plan for Our Future*, GN Docket No. 09-51

Dear Ms. Dortch,

RCA – The Competitive Carriers Association (“RCA”) shares the Commission’s goals of broadening the USF funding base to create a stable, long-term future for the fund while reducing the complexity and uncertainty of the current contribution system. The comments filed in these proceedings reveal a broad consensus in support of these overarching goals. Now that the pleading cycle is complete, however, it is clear that there is significant disagreement on many of the more granular proposals set forth in the Commission’s Notice of Proposed Rulemaking (“NPRM”), including in particular the prospects of assessing text-messaging and broadband Internet access services. As numerous commenters have recognized, the widespread disagreement on major reform proposals counsels against making fundamental changes to the USF contribution regime that lack significant record support.<sup>1</sup>

In RCA’s view, the Commission can make incremental but meaningful progress in its reform efforts by focusing in the near term on the “low hanging fruit”—*i.e.*, relatively uncontroversial proposals that enjoy diverse support—while also taking additional time to conduct a more comprehensive analysis of the more complex issues raised by the NPRM. Specifically, the Commission should take immediate steps to broaden the contribution base by ensuring that all enterprise services that include a telecommunications component and all one-way Voice over Internet Protocol (“VoIP”) services are subject to assessment. These proposals enjoy broad support in the record, are plainly within the Commission’s authority under Section 254(d) of the Communications Act,<sup>2</sup> and will significantly broaden the contribution base.<sup>3</sup> And

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<sup>1</sup> See, e.g., Reply Comments of MetroPCS Communications, Inc. at 3-4 (filed Aug. 6, 2012); Reply Comments of AT&T at 2 (filed Aug. 6, 2012); Reply Comments of Verizon and Verizon Wireless at 2 (filed Aug. 6, 2012).

<sup>2</sup> 47 U.S.C. § 254(d).

because these services make use of the same USF-funded infrastructure as other services that currently are assessed and with which they compete directly, including them in the contribution base would reduce competitive distortions. In addition, CTIA correctly notes that the safe harbor that wireless carriers can invoke to identify interstate revenues is demonstrably inflated, and the Commission can alleviate the burdens on wireless carriers by reducing the safe harbor to a more accurate level.<sup>4</sup> Although these modest reforms will not be the last word on USF contribution reform, they are reasonable, common sense preliminary steps that the Commission can and should take to advance broadly supported policy goals.

In contrast, the record reveals substantial disagreement and significant legal or policy problems with respect to other proposals. For example, RCA agrees with many commenters who argue that the Commission cannot reasonably assess SMS text services while refraining from assessing other competing messaging services, as such an approach would create significant competitive distortions and violate the Commission's duty to implement assessments "on an equitable and nondiscriminatory basis."<sup>5</sup> In addition, there is widespread recognition in the record that assessing broadband Internet services could impede broadband adoption,<sup>6</sup> but there is disagreement over the severity of that impediment relative to the benefits that would be gained by broadening the USF revenue base. The record also reflects significant concerns about the viability of moving to a numbers-based or connections-based contribution methodology. Indeed, even AT&T, a principal advocate of transitioning away from a revenues-based system, agrees that the widespread disagreement in the record counsels against such a transition at this time.<sup>7</sup> These issues each present challenging policy choices that warrant a more comprehensive and nuanced analysis than has been generated through the comment cycle.

MetroPCS has proposed that the Commission convene an industry advisory committee composed of a wide cross-section of the industry to make recommendations regarding long-term contribution reforms that would achieve the goals set forth in the NPRM.<sup>8</sup> RCA believes that

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<sup>3</sup> Commenters supporting the assessment of enterprise services with a telecommunications component include Verizon, U.S. Cellular, CompTel, AARP, MetroPCS, CenturyLink, NTCA/OPASTCO/WTB, and XO Communications. Commenters supporting the addition of one-way VoIP include AT&T, MetroPCS, RTG, NTCA/OPASTCO/WTB, Time Warner Cable, CompTel, and US Cellular. The principal opponent of adding one-way VoIP, Microsoft, has obvious incentives to prevent its Skype service from having to contribute, but that minimal, self-interested opposition does not meaningfully lessen the broad-scale support in the record for including one-way VoIP.

<sup>4</sup> See Reply Comments of CTIA—The Wireless Association, at 2-3 (filed Aug. 6, 2012).

<sup>5</sup> 47 U.S.C. § 254(d); see AT&T Reply Comments at 4, Sprint Nextel Reply Comments at 3-4, Verizon Reply Comments at 16, MetroPCS Reply Comments at 5-6, CTIA Reply Comments at 10-12.

<sup>6</sup> See National Cable and Telecommunications Association Comment at 4-5, Time Warner Cable Comments at 10, Verizon Comments at 11, Clearwire Comments at 3-5.

<sup>7</sup> See AT&T Reply Comments at 2-3, 13.

<sup>8</sup> See Reply Comments of MetroPCS Communications, Inc. at 18-22 (filed Aug. 6, 2012).

this approach has significant merit. Many of the NPRM's proposals entail complex issues that would create both potential benefits and detriments, the relative balance of which is far from clear. As Verizon similarly notes, "there is a need for interested parties to work together to develop an appropriate contribution system that will achieve the Commission's goals,"<sup>9</sup> and an industry advisory committee is an appropriate tool to facilitate collaboration and compromise among interested parties. RCA and its members would welcome an opportunity to participate in such a process.

Sincerely,

/s/

Steven K. Berry  
Rebecca Murphy Thompson  
RCA – The Competitive Carriers Association

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<sup>9</sup> Verizon Reply Comments at 2.